IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.801 of 2006

Narayanan @ Muttaikkodai
Narayanan ... Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai, Egmore,
Chennai-9.

2.The State of Tamil Nadu, rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the first respondent in Memo No.197/BDFGISV/2006 dated 26.07.2006 setting aside the Order of Detention passed therein and direct the respondents to produce the petitioner before this Court, viz., Narayanan @ Muttaikkodai Narayanan, now confined in Central Prison, Chennai before this Court and set him at liberty.

For Petitioner : Mr.R. Ravichandran

For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P. SATHASIVAM, J.)

The petitioner by name Narayanan @ Muttaikkodai Narayanan, who is detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders,

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Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 26.07.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner, by drawing our attention to the First Information Report, which is available at page 24 of the paper book supplied to the detenu, has submitted that though a case was registered on 17/18.07.2006 at 00.15 hours in Crime No.258/2006 for the offences under Section 4(1-A) of TNP Act on the file of Inspector of Police, Prohibition Enforcement Wing, Flower Bazaar Unit, Madhavaram, in the arrest memo, even before registration of the case at 18.30 hours itself the crime number was assigned. There is no explanation how the crime No.258/2006 was mentioned in the arrest memo, which was prepared at 18.30 hours on 17.07.2006. In the absence of proper explanation by the person concerned, we are of the view that such reference made in the arrest memo vitiates the detention order on the ground of non application of mind. On this ground, the detention order is liable to be quashed and accordingly, the same is quashed.

4. The Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The Commissioner of Police, Greater Chennai, Egmore, Chennai-9.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenue)

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4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

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